

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARGARET E. SAGER, II, *et al.*,

Plaintiffs,

vs.

DETECTIVE SOUTHWELL, *et al.*,

Defendants.

Case No. 2:13-cv-01235-RCJ-CWH

FINDINGS AND RECOMMENDATION

This matter is before the Court on Plaintiffs' Second Application for Leave to Proceed *In Forma Pauperis* (#4), filed on July 22, 2013. The Court previously recommended that Plaintiffs' First Application (#1) be denied. Plaintiffs' Second Application does not contain any new information as it similarly indicates that Margaret receives income in the amount of \$780 per month and has no regular monthly expenses or debts and other financial obligations. Based on this information, the Court again finds that Margaret's income is sufficient to pay the filing fee in this case. *See Ross v. San Diego County*, 2008 WL 440413 (S.D. Cal. Feb. 14, 2008) (finding plaintiff did not qualify to proceed *in forma pauperis* where she received \$2,100 in disability payments, owned a car and house, and "carried significant debt"). Accordingly, the Court will order that the Plaintiffs submit the required filing fee or it will recommend dismissal of this action.

Based on the foregoing and good cause appearing therefore,

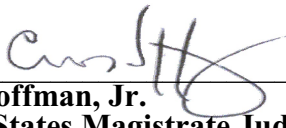
RECOMMENDATION

IT IS RECOMMENDED that Plaintiffs' Second Application to Proceed *in Forma Pauperis* (#4) be **DENIED**. Plaintiffs should be required to pay the filing fee of \$400.00 within thirty days from the date that an Order denying Plaintiffs' Second Application is entered. Failure to comply with that Order will result in the Court recommending dismissal of this action.

NOTICE

1 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
2 writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held
3 that the courts of appeal may determine that an appeal has been waived due to the failure to file
4 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
5 held that (1) failure to file objections within the specified time and (2) failure to properly address and
6 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual
7 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt*
8 *v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

9 Dated this 29th day of July, 2013.

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13 **C.W. Hoffman, Jr.**
14 **United States Magistrate Judge**
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